

BEFORE THE

In the Matter of:

TECK COMINCO ALASKA, INC.  
Red Dog Mine,  
Kotzebue, Alaska

NPDES Permit No. AK-003865-2

Docket No. CWA-10-2006-0263

COMPLIANCE ORDER BY  
CONSENT and REQUEST  
FOR INFORMATION

## I. STATUTORY AUTHORITY

1.1. The following FINDINGS AND CONCLUSIONS are made, and COMPLIANCE ORDER BY CONSENT AND REQUEST FOR INFORMATION ("Order") issued, under the authority that Sections 308 and 309(a) of the Clean Water Act ("Act"), 33 U.S.C. §§ 1318 and 1319(a), vest in the Administrator of the United States Environmental Protection Agency ("EPA").

1.2. This authority has been delegated to the Regional Administrator, Region 10, and has been duly redelegated to the undersigned Director, Office of Compliance and Enforcement, Region 10.

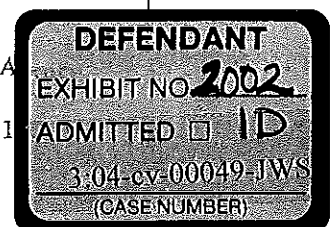
## II. FINDINGS AND CONCLUSIONS

### Regulatory Basis

2.1. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person, except as authorized by a National Pollutant Discharge Elimination

CONSENT AGREEMENT AND FINAL ORDER - 1  
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U.S. Environmental Protection Agency  
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Seattle, Washington 98101  
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1 new data, ADEC adopted a site-specific criterion for TDS during Arctic grayling spawning of  
2 1,500 mg/l in the Main Stem of Red Dog Creek, which EPA approved on April 21, 2006.

3 2.11. On February 2, 2006, EPA issued for public notice, a draft NPDES permit for the  
4 Red Dog Mine ("2006 Draft Permit"). The 1,500 mg/l site-specific criterion for TDS during  
5 Arctic grayling spawning was included in the 2006 Draft Permit. The public notice period ended  
6 on March 27, 2006. Due to the large number of comments received, EPA will not be able to  
7 reissue the permit prior to the beginning of the 2006 Outfall 001 discharge season, which  
8 generally begins in May. Because EPA Region 10 has not yet reissued the permit as of the date  
9 of this Order, the 1998 Permit's original more stringent TDS limits, as set forth in Paragraph 2.5,  
10 remain the effective effluent limits during Arctic grayling spawning.

12 **Permit Exceedances**

13 2.12. At times during the months of September 1998, May - October 1999, May -  
14 October 2000, May - October 2001, May - October 2002, May - August 2003, May - June 2004,  
15 and May - June 2005, Teck Cominco violated the TDS effluent limits in Part I.A.1 of the 1998  
16 Permit.

17 2.13. Teck Cominco's violations of the TDS limits in Part I.A.1 of the 1998 Permit  
18 constitute violations of Section 301(a) of the Act, 33 U.S.C. § 1311(a).

19 2.14. Teck Cominco submitted information suggesting that it will not be in compliance  
20 with the 1998 Permit's TDS limits during the 2006 discharge season.

21 2.15. Discharge Volume Needs: Expected Exceedance of Maximum In-Stream TDS  
22 Levels. Because of the manner in which TDS is introduced into the Mine's wastewater during  
23 the wastewater treatment process, the TDS concentration in the receiving water is directly related  
24  
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